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5

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
8

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 STEPHON WHITNEY,

13 Defendant.
14

Case No. 2:21-cr-00002-JAD-NJK

**STIPULATION TO CONTINUE
SENTENCING**
(First Request)

15 IT IS HEREBY STIPULATED AND AGREED, by and between Jason
16 Frierson, United States Attorney, and Dan Cowhig, Assistant United States
17 Attorney, counsel for the United States of America, and Yi Lin Zheng, counsel for
18 Stephon Whitney, that the resentencing hearing currently scheduled for
19 September 19, 2022 be vacated and set to a date and time convenient to this Court,
20 but no sooner than thirty (30) days.

21 The Stipulation is entered into for the following reasons:

22 1. Defense counsel needs additional time to prepare for sentencing.
23 Defense counsel is gathering letters of support and clarifying potential objections
24 to the PSR.

25 2. The parties agree to the continuance.
26

1 3. Because Mr. Whitney needs additional time to clarify the status of his
2 state convictions and custody status, he requests leave of the court to submit
3 informal objections to the PSR beyond the 14 calendar days after the initial
4 disclosure of the report, but not later than 14 days from the court's order. The U.S.
5 Attorney's Office does not oppose.

6 4. The additional time requested herein is not sought for purposes of
7 delay, but merely to allow counsel for defendant sufficient time within which to be
8 able to effectively and complete investigation of the discovery materials provided.

9 5. Additionally, denial of this request for continuance could result in a
10 miscarriage of justice. The additional time requested by this Stipulation is
11 excludable in computing the time within which the trial herein must commence
12 pursuant to the Speedy Trial Act, Title 18, United States Code, Section
13 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section
14 3161(h)(7)(B)(i), (iv).

15 This is the first stipulation to continue filed herein.

16 DATED: August 29, 2022.

17
18 JASON FRIERSON
United States Attorney

19
20 By: /s/ Yi Lin Zheng.
21 Yi Lin Zheng
Counsel for Stephon Whitney

22 By: /s/ Dan Cowhig.
23 Dan Cowhig
24 Assistant United States Attorney
25
26

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STEPHON WHITNEY ,

Defendant.

Case No. 2:21-cr-00002-JAD-NJK

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Defense counsel needs additional time to prepare for sentencing. Defense counsel is gathering letters of support and clarifying potential objections to the PSR.

2. The parties agree to the continuance.

3. For good cause shown, defendant Whitney is granted leave to submit informal objections to the PSR within 14 days of this order.

4. The additional time requested herein is not sought for purposes of delay, but merely to allow counsel for defendant sufficient time within which to be able to effectively and complete investigation of the discovery materials provided.

5. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is

1 excludable in computing the time within which the trial herein must commence
2 pursuant to the Speedy Trial Act, Title 18, United States Code, Section
3 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section
4 3161(h)(7)(B)(i), (iv).

5 **CONCLUSIONS OF LAW**

6 The ends of justice served by granting said continuance outweigh the best
7 interest of the public and the defendant in a speedy trial, since the failure to grant
8 said continuance would be likely to result in a miscarriage of justice, would deny
9 the parties herein sufficient time and the opportunity within which to be able to
10 effectively and thoroughly prepare for trial, taking into account the exercise of due
11 diligence.

12 The continuance sought herein is excludable under the Speedy Trial Act,
13 Title 18, United States Code, Section § 3161 (h)(7)(A), when the considering the
14 factors under Title 18, United States Code, § 3161(h)(7)(B)(i), (iv).

15 **ORDER**

16 IT IS THEREFORE ORDERED that the resentencing hearing scheduled for
17 September 19, 2022 at 3:00 PM is vacated and continued to: -
18 _____ . Mr. Whitney may submit late informal objections to US
19 Probation.
20

21
22 DATED: August 29, 2022.

23
24 _____
25 UNITED STATES DISTRICT JUDGE
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